

## MARINE WAR-RISK INSURANCE

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APRIL 1 (legislative day, MARCH 30), 1942.—Ordered to be printed

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MR. RADCLIFFE, from the Committee on Commerce, submitted the following

## REPORT

[To accompany H. R. 6554]

The Committee on Commerce, to whom was referred the bill (H. R. 6554) to amend war-risk insurance provisions of the Merchant Marine Act, 1936, as amended, in order to expedite ocean transportation and assist the war effort, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows, and are indicated in the bill as reported by line type and italic:

Page 1, line 5, after the word "amended" insert a comma and the following "effective as of April 1, 1942" and a comma.

Page 2, line 21, before the period insert a colon and the following:

*Provided*, That there shall be reported on the last day of each calendar month to the Chairman of the Committee on Commerce of the United States Senate, and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, the insurance or reinsurance written under clause (2) of this subsection (a), during the preceding month, together with the rates and the reasons for such rates and such insurance and reinsurance.

Page 3, line 19, strike out "10" and insert in lieu thereof "14".

Page 5, line 6, strike out "transaction" and insert before the word "any" the word "arranging".

## EXPLANATION OF AMENDMENTS

The first amendment would obviate possible controversies which might arise as the result of action which may have to be taken by the War Shipping Administration to provide war-risk insurance for certain foreign-flag vessels effective April 1, 1942. The Administration had not provided war-risk insurance for foreign-flag vessels, notwithstanding authority to do so in cases where the vessels are owned or controlled by the United States or any agency thereof (sec. 222 (b) (1)

of Subtitle—Insurance). While there were difficulties, the private insurance market, until April 1, 1942, has been able to provide the necessary insurance for the vessels serving the war commerce of the United States. Effective on that date, however, the private insurance market has, to a considerable extent, withdrawn from writing hull war-risk insurance, at least on terms which could be met by owners. The War Shipping Administration, therefore, in order to keep the ships moving in war commerce to and from United States ports may have to extend direct war-risk insurance for these vessels effective on said date.

The second amendment requires a monthly report of insurance and reinsurance under clause (2) of section 221 (a) to be made to the chairman of the Senate Committee on Commerce and the chairman of the House Committee on the Merchant Marine and Fisheries.

The third amendment corrects the reference to the date of enactment of the act of July 14, 1941.

The fourth amendment clarifies the prohibition against payment of a fee to an insurance broker participating in any insurance transaction wherein the Government directly insures any part of the risk involved. Insurance brokers have a staff, distinct from their force engaged in writing or placing insurance, which handles the adjustment of claims arising under outstanding insurance policies. The amendment would enable the Government to employ the services of experienced adjusters for the handling of claims arising under insurance written under the statute, without setting up a large Government staff, for which it would be very difficult to secure efficient and experienced adjusting personnel.

#### GENERAL STATEMENT

The purpose of the bill is to extend the scope of insurable property and persons for which Government marine war-risk insurance may be furnished and to authorize such insurance to be provided under conditions which will keep ships and cargo moving and protect American seamen and their dependents in this war. The existing insurance provisions enacted June 29, 1940, are contained in Subtitle—Insurance in title II, Merchant Marine Act, 1936, as amended (Public, No. 677, 76th Cong.).

The conditions and limitations under which marine war-risk insurance may now be furnished are set forth in section 221 (a) of the said Subtitle—Insurance. These provisions and restrictions, it is clear from experience since the declaration of war, are no longer suited to the conditions and requirements now that the United States is at war.

The personnel and property interests on which insurance may now be furnished are set forth in section 222 of the subtitle. This section provides for insurance of vessels documented under the laws of the United States and cargo and personnel in connection therewith, and for the insurance of commercial vessels (with no limitation as to documentation) owned or controlled by the United States or any department or agency thereof, cargoes owned by the Government or in which the Government has an insurable interest, and personal effects of officers and crew members. The insurance authority in respect of the lives of officers and members of crews is limited to the personnel of vessels documented under the laws of the United States

so far as the subtitle is concerned. Other authority of the Administration in respect of insuring crew members (as under sec. 3 (b) of Public, 101, approved June 6, 1941) is so limited as to be an inadequate basis for furnishing the necessary insurance protection for crews.

The bill by amending section 221 (a) would enable the Government to furnish the necessary marine war-risk insurance whenever it appears (even though private insurance may be available on conditions that would be adequate and reasonable during more normal times) that the furnishing of such insurance with respect to any type of water transportation or vessel services would be of material benefit to the war effort or the domestic economy, and to furnish such insurance on a nominal or other rate basis, upon a finding as to benefit to the domestic economy or the war effort after consultation with the Office of Price Administration or other Government agencies. The amendment would further extend the insurance authority to such transportation or vessel services whenever it is necessary or advisable for military or naval reasons as determined after consultation with the Secretary of the Navy or the Secretary of War. These amendments are concurred in by the Administrator, Office of Price Administration, the Administrator, War Shipping Administration, and the Director, Office of Defense Transportation. It is believed that this broadening of the scope of the statute would enable the Government to provide insurance protection essential to conduct of the war economy.

Substantial increases in war-risk insurance rates since the declaration of war have been reflected in the rates for transportation by water. Insurance coverage and the cost of such coverage extend not only to insurance for hulls and cargo, but also for the lives and property of the crew, as well as internment in the event of capture. Such increases in transportation costs have had an appreciable effect on prices, and upon movement of commodities to or from the continental United States and the territories and possessions thereof. The Administrator of the Office of Price Administration advised the House Committee on Merchant Marine and Fisheries in respect of this legislation that "in many trades and on many commodities the transportation rate is equal to, or in excess of, the f. o. b. price of the commodity."

The amendments to section 222 would authorize, in addition to the insurance of documented or undocumented American vessels, the insurance of Philippine vessels, foreign-flag vessels owned by citizens of the United States or owned or controlled by or made available to any agency of the United States, and also foreign-flag vessels (even though not so owned, controlled, or made available) if and while they are engaged in the water-borne foreign commerce of the United States or in other transportation by water deemed to be in the interest of the war effort or the domestic economy.

The existing provisions of Subtitle—Insurance, in respect of war-risk insurance on foreign-flag vessels, and particularly as to crews of such vessels and cargo carried thereon, were enacted about 18 months before the United States entered the war. These provisions of law do not conform to the status of the United States as a belligerent and have greatly reduced the availability and effectiveness of insurance furnished by the Government. For example, American-flag vessels are not available to carry all of our strategic and critical imports. Yet shippers naturally desire to get their insurance from a source which will cover the cargo and their entire shipping operations regardless of the nationality of the vessel which may happen to carry

the cargo. Under war conditions, the shippers must use the services of whatever vessels may be available for transportation to or from the United States.

The bill, in addition to expressly extending the insurance for seamen to those employed on any insurable vessel, also removes certain limitations which now restrict the types and nature of the insurance which may be provided for officers and crew members on vessels eligible for insurance, against loss of life, personal injury, or detention by an enemy. The insurance for crew members and officers is particularly important in relation to their protection and the protection of their dependents as a means of keeping the war shipping of the United States in full operation.

Decisions of the Maritime War Emergency Board require that each member of the crew of any merchant vessel documented under the laws of the United States shall be insured against loss of life, bodily injury, and loss of personal effects, due to risks of war or warlike operations in the areas defined by the Board. This insurance covers voyages of such vessels other than voyages exclusively on inland waters of the United States.

The insurance required by these decisions of the Maritime War Emergency Board can be procured by the shipowners and operators from commercial insurers or the War Shipping Administration. The protection is without cost to the seamen and is borne by the shipowners and operators. The Administration has prepared policy forms to be generally available to the personnel. These policies will have a coverage commensurate with the requirements of the Maritime Board.

The approved policy would, during employment under articles for a voyage or voyages until discharge of the employee or termination of the voyage, indemnify seamen and officers against loss of life and bodily injury (including specific indemnities for loss of limb or sight or hearing) occasioned by capture, seizure, destruction by men-of-war, detainment, and other warlike operations (including collisions in convoy), and all other acts in the prosecution of hostilities. In the event of total and permanent disability arising from accidental bodily injury other than the specific injuries above referred to, compensation is payable in monthly installments at the rate of 2 percent of the principal sum of the policy, to continue during the total disability, or until payment of the principal amount in the policy.

Section 228 of the bill, in conformity with the President's Executive Order of February 7, 1942 (No. 9054; 7 F. R. 837), provides that the administrative authority under the Subtitle—Insurance be vested in the Administrator, War Shipping Administration. The Executive order in question established a War Shipping Administration in the Executive Office of the President and defined its functions and duties. The Administrator was specifically directed by the Executive order to "provide marine insurance and reinsurance against loss or damage by the risks of war as authorized by title II of the Merchant Marine Act, 1936, as amended." This conferring of authority will terminate in accordance with title I of the First War Powers Act, 1941.

Until the declaration of war in December, the Maritime Commission had not exercised generally the authority under the Subtitle—Insurance. Shippers had been able to procure necessary insurance protection in the American insurance market, which had made many



adjustments in terms and rates so as to provide the insurance needed to keep American-flag vessels in full operation.

Since the declaration of war the Commission has written a large amount of insurance on American-flag hulls. Insurance has also been written on members of crews.

Insurance has for the most part been confined to voyages between the Pacific Coast and Hawaiian Islands and voyages in United States Atlantic coastal and West Indies waters.

In addition, insurance has been furnished for a few isolated ship movements where commercial insurance rates were determined to be unreasonable.

The Commission has worked out its plans to provide cargo insurance on shipments between the United States and its Territories, since such shipments are confined to American-flag vessels under the coast-wise laws. This protection has been available since March 1, 1942.

#### PROVISIONS OF THE BILL

The bill revises the Subtitle—Insurance, by amending and rearranging sections 221 (a), 222, 223, 224, and 226 (f), and deleting section 228 and inserting a new section 228. Sections 221 (b), 225, 226 (except subsec. (f)), and 227 are left unchanged.

To meet wartime developments, the bill would omit certain limitations in section 221 (a) and would broaden the term "water-borne commerce of the United States," in respect of which insurance may now be provided to cover not only transportation of the water-borne commerce of the United States, but also any other transportation by water or any other vessel services deemed to be in the interest of the war effort or the domestic economy. For example, the phrase "vessel services" would cover such marine operations as those of dredges at outlying bases. By means of a construing provision inserted in section 226 (f), the term "water-borne commerce of the United States" is deemed to include the operation of vessels in the fishing trade or industry.

Section 221 (a) now provides for Government insurance only when insurance cannot be procured on reasonable terms and conditions in the private insurance market. The amendments would provide for such insurance whenever it appears, regardless of the terms and conditions on which private insurance may be available, that the furnishing of insurance with respect to any type of transportation or vessel services described would be of material benefit to the war effort or to the domestic economy, and also whenever (after consultation with the Secretary of the Navy or the Secretary of War) the furnishing of such insurance is necessary or advisable for military or naval reasons.

The amendments to section 221 would also authorize the providing of insurance at nominal rates not based on strictly commercial insurance practices and principles of risks.

The bill would amend section 222 to enlarge the scope of insurable property and interests; that is, the classes of vessels, cargo, and personnel eligible for insurance. The revised section would authorize, in addition to the insurance of documented or undocumented American vessels, the insurance of Philippine vessels, foreign-flag vessels owned by citizens of the United States or owned or controlled by or made

available to any agency of the United States, and also foreign-flag vessels (even though not so owned, controlled, or made available) if and while they are engaged in the water-borne foreign commerce of the United States or in other transportation by water deemed to be in the interest of the war effort or the domestic economy. This enlargement of the scope of insurable vessels is necessary to meet the needs of the United States during wartime, but it is still properly restricted to vessels needed in the commerce of this country during the war.

The amended section 222 also authorizes the Commission to insure cargoes, disbursements, freights, and personal effects of officers and members of the crew and of persons transported on the vessel, in connection with the enlarged classes of insurable vessels.

The Commission would also be authorized to insure officers and crew members on such vessels, and other persons employed or transported thereon, against loss of life, personal injury, or detention by an enemy subject to the same conditions as to adequacy of existing private insurance or the desirability of furnishing Government insurance as are provided in section 221 (a) as amended by this bill. Such insurance, however, would not be limited to the types provided or furnished previously by private companies as required in the present section 224. The new subsection (f) in section 222 as amended by the bill would also authorize the Commission to provide direct insurance in respect of statutory or contractual obligations of shipowners or charterers, now only partly covered by the provisions of section 222.

The present section 222 (b) (relating to insurance of commercial vessels, Government-owned or operated) would be omitted, but such vessels (and cargoes, etc., in connection therewith) would be insurable under the text of sections 222, 224, and 226 (f), as revised.

Vessels engaged in the fisheries have been held to be insurable under the present subtitle, and are made expressly eligible for insurance under the revised subtitle by a construing provision in the amended section 226 (f) relating to "transportation in the water-borne commerce of the United States" as used in the revised section 221.

The provisions in section 223 (a) and (b) (relating to reinsurance as between the Government and private companies) are combined in the revised section 223.

The present section 223 (c) is included in the revised subtitle as section 224 (a), in lieu of the present section 224, which is deleted because it is covered by the revised text of section 222.

The new section 224 (b) would enable the War and Navy Departments to procure insurance on a nominal premium basis from the Commission, the Department concerned to indemnify the Commission against all losses covered by the insurance.

Sections 225, 226 (except subsec. (f)), and 227 are left unchanged. Section 228 of the present law is omitted because the life of the revised subtitle is limited in the revised section 221 (a). This limitation corresponds to the provision of extension in Public Law 482, approved March 6, 1942 (H. R. 6550.). The new section 228 conforms to the existing administrative status as established by the Executive order above referred to creating the War Shipping Administration with jurisdiction over war-risk insurance under the Subtitle—Insurance.

The definition of American vessels in subsection (f) of section 226 is amended so that it includes (but is not limited to) any vessel documented under the laws of the United States, any undocumented vessel owned or chartered by or made available to a United States agency, and any American-owned tug or barge or other craft (documented or undocumented) used in essential water transportation or the fishing trade or industry. Clause 2 adds a provision, as above mentioned, to include fishing vessels.

The report of the Administrator, War Shipping Administration, on the bill (introduced form) is appended hereto. The Budget Bureau has advised that there was no objection to the submission of the report to Congress.

UNITED STATES MARITIME COMMISSION,  
OFFICE OF THE CHAIRMAN,  
Washington, February 25, 1942.

Hon. S. O. BLAND,  
*Chairman, Committee on the Merchant Marine and Fisheries,*  
*House of Representatives*

DEAR JUDGE BLAND: You have requested my views with respect to H. R. 6554, a bill to amend war-risk insurance provisions of the Merchant Marine Act, 1936, as amended, in order to expedite ocean transportation and assist the war effort.

The purpose of the bill is to extend the scope of the authority under Subtitle—Insurance to provide marine reinsurance and marine war-risk insurance and reinsurance for the more efficient prosecution of the war.

The bill would revise Subtitle—Insurance in title II of the Merchant Marine Act, 1936, as amended (Public. No. 677, 76th Cong., approved June 29, 1940). Sections 221 (a), 222, 223, 224, and 226 (f) would be revised and rearranged. Sections 225, 226 (except subsec. (f)), and 227 would not be changed. Section 228 would be deleted.

Section 221 (a) of the present subtitle sets forth the purpose thereof and the conditions under which the Maritime Commission may provide marine reinsurance and marine war-risk insurance and reinsurance. The stated purpose is that of "protecting the water-borne commerce of the United States from the impediments and burdens arising from the lack of adequate facilities for the insurance of such commerce, due to extraordinary risks arising under existing war conditions." The subtitle now also requires, before insurance may be provided under it, a determination that "insurance adequate for the needs of the water-borne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States."

Since the United States is now a belligerent, the primary purpose of providing insurance is the efficient prosecution of the war and the protection of essential commerce during that war. The statement of purpose based on war conditions existing at the time of enactment of the subtitle (June 29, 1940) is not commensurate with the conditions obtaining now that the United States is at war.

The revision would omit the stated purpose above referred to and limit the life of the revised subtitle to the war period plus further time (not exceeding 6 months) within which to terminate operations. The existing authority expires on March 10, 1942 (section 227 (f)), unless extended.

Further to meet conditions arising out of the entry of the United States into the war, the term "water-borne commerce of the United States," in respect of which insurance may be provided, would be amplified and clarified. Under the revised section 221 (a) insurance could be furnished whenever it appeared to the administrative agency that adequate insurance for the needs of transportation of the water-borne commerce of the United States, or for other transportation by water or other vessel services deemed to be in the interest of the war effort or the domestic economy, could not be obtained on reasonable terms and conditions from the American insurance market. Such insurance could also be furnished whenever it appeared that the furnishing of such insurance with respect to any such transportation or vessel services would be of material benefit to the war effort or the domestic economy or, after consultation with the Secretary of the Navy or



the Secretary of War, would be necessary or advisable for military or naval reasons. The term "vessel services" would cover such operations as those of dredges at outlying bases.

Subsection 221 (b), establishing the marine and war-risk insurance fund, would be retained without change.

Section 222 would be revised to enlarge the classes of vessels and cargoes eligible for insurance and also to provide for insurance of crew personnel on a more flexible basis than is now prescribed in section 224. Under the present section 222 only American-flag vessels are eligible. The revised section would authorize, in addition to the insurance of documented or undocumented American vessels (see sec. 226 (f)), the insurance of Philippine vessels, foreign-flag vessels owned by citizens of the United States or owned or controlled by or made available to any agency of the United States, and also any foreign-flag vessels, even though not so owned, controlled, or made available, if and while engaged in the water-borne foreign commerce of the United States or in other transportation by water deemed to be in the interest of the war effort or the domestic economy.

Cargoes, disbursements, freights, and personal effects of officers and members of the crew in respect of the enlarged classes of vessels would be insurable under the revised section.

The revision would authorize the insurance of officers and crew members on such vessels, and other persons employed thereon, against loss of life, personal injuries, or detention by an enemy, conditioned on a prior determination as to adequacy of existing insurance or as to the desirability of furnishing Government insurance, but without limiting the insurance provided to that previously furnished by private companies, as required in the present section 224.

There would be authority under the new subsection (f) in section 222 to provide direct insurance in respect of statutory or contractual obligations of shipowners or charterers, now only partly covered by the reinsurance provisions of section 223.

The proviso in section 222 (a) (2) relating to the neutrality law is properly omitted since the United States is not now a neutral.

The present section 222 (b) (relating to insurance of commercial vessels, Government-owned or -operated) would be omitted but such vessels (and cargoes, etc., in connection therewith) would be insurable under the text of sections 222, 224, and 226 (f), as revised.

Vessels engaged in the fisheries have been held to be insurable under the present subtitle, and would be made expressly eligible for insurance under the revised subtitle by a construing provision in the amended section 226 (f) relating to "transportation in the water-borne commerce of the United States" as used in the revised section 221.

The provisions in section 223 (a) and (b) (relating to reinsurance as between the Government and private companies) are combined in the revised section 223.

The present section 223 (c) is included in the revised subtitle as section 224 (a), in lieu of the present section 224, which is deleted because it is covered by the revised text of section 222.

The new section 224 (b) would enable the War and Navy Departments to procure insurance on a nominal premium basis from the Commission, the Department concerned to indemnify the Commission against all losses covered by the insurance.

Sections 225, 226 (except subsection (f)), and 227 are left unchanged. Section 228 is omitted because the operative life of the revised subtitle is limited in the revised section 221 (a).

Subsection (f) of section 226 would be amended to specifically include undocumented vessels owned or controlled by or chartered to a United States agency, and, as above mentioned, to include fishing vessels.

It is suggested that, in conformity with the President's Executive order of February 7, 1942, the authority vested in the Commission by the Subtitle—Insurance be vested in the Administrator, War Shipping Administration. By that order the functions of the Maritime Commission under Subtitle—Insurance were transferred to the Administrator.

I consider the proposed legislation advisable and necessary in the interest of the more effective prosecution of the war.

The proposed legislation has been submitted to the Director of the Bureau of the Budget, and his advice will be transmitted when received.

Sincerely yours,

E. S. LAND,  
Administrator, War Shipping Administration.